S.B.CRIMINAL MISC. PETITION NO.1260/2006
(Ganesha Ram Vs. State & Ors.)

Date of order : 14.9.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. N.R. Goswami, for the petitioner.
Mr. Vishnu Kachwaha, Public Prosecutor.
Mr. S.K. Mathur, for non-petitioners.

Heard learned counsel for the parties and perused the impugned orders.

The petition as against the non-petitioners No.2 – Kamla No.3 – Gayatri with regard to granting of interim maintenance is rejected.

However, with regard to non-petitioner No.2 – Smt. Laxmi, wife of the petitioner, it is contended by the learned counsel for the petitioner that a decree under Section 9 of Hindu Marriage Act has been passed against non-petitioner No.2 for restitution of conjugal rights but still she is living separately.

In these circumstances, the petitioner is free to take recourse of law by way of filing appropriate application before Addl. Chief Judicial Magistrate No.4, Bikaner, apprising the Court that there is a decree passed against the non-petitioner No.2 for restitution of conjugal rights and, therefore, non-petitioner No.2 is not entitled to get

any maintenance from the date of passing of aforesaid decree. However, in the interest of justice, the execution of order with effect from the date of decree i.e. 8.4.2005 with regard to interim maintenance to non-petitioner No.2 Smt. Laxmi shall remain stayed for a period of one month and meanwhile the petitioner may file application before the trial Court. The trial Court may consider the said application and pass fresh order.

With the aforesaid observations and directions, the misc. petition is disposed of.

(GOPAL KRISHAN VYAS), J .

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